

THE HONOURABLE SRI JUSTICE V. ESWARAI AH

WRIT PETITION No.21574 OF 1996

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DATED: 03-10-2007

BETWEEN

Paluri Kondala Rao,
S/o. Late Satyanarayana Dora,
R/o. Babametta,
Vizinagaram and others.

...PETITIONERS

AND

Collector and Magistrate,
Vizianagaram and three others.

...RESPONDENTS

ORDER:

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The petitioners herein are the sons of Late Satyanarayana Dora, who was admittedly the owner of the land in an extent of Ac.0.94 cents in Sy.No.226/1, Vizianagaram Town having purchased the same under registered sale deed dated 05.11.1963.

2. The petitioners question the order of the Collector, Vizianagaram dated 20.06.1996 in Rc.No.317/96 B.6 in dismissing the revision filed under Section 9 of the Andhra Pradesh Occupants of Homesteads (Conferment of Ownership) Act, 1976 (for short 'the Act') by their father in 1984 against the orders passed by the Tahsildar, Vizianagaram in Rc.No.6060/76/A2 dated 18.10.1978 granting ownership certificate under Section 6 of the Act.

3. It is the case of the petitioners that the said land was admittedly

purchased by their father and the Tahsildar, Vizianagaram erroneously granted the ownership certificates to the occupants under the provisions of the Act though they not entitled to ownership certificates.

The said orders have been mechanically confirmed by the District Collector in the impugned proceedings. It is stated that the land covered by the houses to an extent of Ac.0.60 cents was excluded from the holding under the Land Ceiling Act on the ground that the land was covered by houses etc. therefore, the Tahsildar ought not to have granted ownership certificates under the Act. It is further stated that the act has no application to the facts of the case as the petitioners' father purchased the said land from the occupants and therefore, the occupants are not entitled for ownership certificates.

4. It is not in dispute that under the provisions of the Act the landless agriculturists, agricultural labour and artisans, who are in occupation of any land as on 14.08.1975, the date on which the Act came into force, shall not be evicted from the dwelling houses or homestead unless the land owner proves that the homestead belongs to him and that the persons in the houses are not tenants but an occupant. Homestead as defined under Section 3(9) of the Act is as follows:

“Homestead’ means the site of any dwelling house occupied, either as licensee or otherwise, by any landless agriculturist or agricultural labourer or artisan in any village and includes such other area adjacent to the dwelling house as may be necessary for the convenient enjoyment of such dwelling house.”

5. After the Act came into force under Section 5 of the Act the occupant

of homestead becomes the owner. The contentions of the petitioners that the Act has no application to the facts of the case;

that the extent of Ac.0.60 cents was excluded from the holding of their father under the Land Ceiling Act and that their father purchased the said land in questions along with houses; are in conflicting nature.

The enquiry conducted by the Tahsildar and the grant of ownership certificates in 1978 was questioned only in 1984 i.e. after a period of six years. Even in the revision filed by the father of the petitioners, the persons in whose favour the orders have been passed in Rc.No.6060/76/A2 dated 18.10.1978 have not been impleaded. Therefore, without impleading them the revision is not maintainable. However, the revisional authority having considered the contentions of the father of the petitioners rightly rejected the revision on the ground that there was no material whatsoever in support of his contention that he has purchased the said houses and the exclusion of Ac.0.60 cents under the Land Ceiling Act has nothing to do with the grant of ownership certificates under the Act. In view of the aforesaid facts and circumstances of the case, I do not see any merits in the writ petition.

The writ petition is accordingly dismissed. There shall be no order as to costs.

V. ESWARAI AH, J

October 3, 2007
DSK